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May 4, 2000

The Honorable Rodney E. Slater
Secretary of Transportation
U.S. Department of Transportation
Docket No. FAA-1999-6673-31
400 Seventh St., SW
Room Plaza 401
Washington, D.C. 20590

Dear Mr. Secretary:

Attached please find comments for the FAA's Notice of proposed rulemaking on the certification of screening companies.

Thank you for the opportunity to submit these comments.

Sincerely,

Andrew L. Stern

Andrew L. Stern
International President

Enc.

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Comments submitted by Andrew L. Stern, International President, Service Employees International Union. Docket No. FAA- 1999-6673

Thank you for the opportunity to submit these comments. The Service Employees International Union (SEIU) represents 1.3 million workers throughout the United States and Canada, primarily in the public, health care, and service industries. We represent workers at airports across the country, including airport security service workers. In addition, our union is currently supporting organizing efforts by security screeners at the Los Angeles and San Francisco International Airports. We are submitting this testimony with regard to the Federal Aviation Administration's proposed rulemaking concerning the certification of screening companies (14 CFR Parts 108, 109, 111 (new), 129 and 191). This is a topic with which our union has great concern, since we want to contribute to the enhancement of safety and security for both passengers and workers at all U.S. airports.

In this testimony, we comment on certain areas of the proposed rulemaking, which we believe would strengthen the regulations, and thereby help to improve the training, compensation, performance, and retention of airport screeners.

We are very pleased that the FAA has undertaken the long overdue evaluation of how to improve our nation's airport security. Too many serious security breaches have occurred to be ignored. These breaches undermine the confidence of the traveling public as well as jeopardize the safety of passengers and workers. In addition, our most important resource in ensuring safety – the front line workers – have been ignored for too long. We feel it is imperative to make the necessary changes so that American airports have the same high level of security already in place throughout much of the world.

Within this testimony we will focus upon the following items:

- Providing protections for experienced security screeners;
- Federal preemption of local ordinances;
- Improved compensation of screeners;
- Staffing and training issues;
- Screening company accountability; and
- "Responsible" contractors.

Providing protections for experienced security screeners

In order to have a high quality security operation you must have experienced workers. This is the one area where the aviation screening industry falls miserably short. Annual turnover rates for the industry have been reported to range anywhere from 100 to 500 percent. Screening companies can also lose their contract for security on a 30-days notice. When the company is replaced, ofter

times the security screeners are replaced as well, even though they may not have been part of the problem.

It is imperative that we not treat these workers as scapegoats, for more often than not the blame lies with poor management. We are troubled with the language used by the FAA in their proposed rule when the Agency states it "is concerned about situations in which incoming companies use the same equipment and have the same employees from the unsatisfactory companies and make no real change in the quality of the screening."

In our opinion, it is counterproductive to dismiss experienced and qualified workers when the company that employs them is performing poorly. It is essential that these workers are not dismissed forthright. They should at the very least have the opportunity to prove their worth. Only if workers do not meet a company's legitimate expectations after a trial period should they be replaced. This is not a novel concept. The District of Columbia has provided similar protection for service workers in its Displaced Workers Protection Act, D.C. Code Annot., § 36-1501. Likewise, the City of Los Angeles has provided such protections in its Service Contract Worker Retention Ordinance, L.A. Admin. Code § 10.36.

Safety suffers when a contract turns over and the new company replaces all the workers. Having inexperienced workers decreases efficiency and effectiveness. This is certainly not in the best interest of what this proposed rule is attempting to accomplish.

A related area, which should not be ignored, is whistle blower protection. If a security screener is concerned about its company's operations and sees that proper procedures are not being followed, workers will be more likely to report such shortcomings to supervisors and the airport if they know their job would not be put in jeopardy. Security workers should be encouraged, not discouraged, in reporting such deficiencies. And in order to do so they need the job protection.

To enhance job protection, the Agency must consider including worker retention language in the final rule. Such language would allow workers who worked under the prior contract to keep their jobs if the carrier chose to hire a new security contractor. An employee need not have worked for the predecessor contractor for any particular period of time in order to be eligible.

Federal Preemption

While we applaud the FAA's attempt to strengthen airport security on a national basis, the Agency must be aware that certain localities have already instituted their own ordinances or policies with the same idea in mind. Los Angeles and San Francisco are two good examples. In Los Angeles, a living wage ordinance increased wages and benefits for all airport workers. In San Francisco, it covers all workers directly impacting safety and security, such as screeners, and ramp workers. The San Francisco program has increased both compensation, and training, as well as given management the oversight to monitor, report, and correct any safety problems. In both cases, raising the standards for screening companies has helped to ensure a stronger and more stable work force. These initiatives are already in place and augment the proposed rule being developed by the FAA.

We are completely opposed to any federal preemption that establishes ceilings for local regulation. The FAA's efforts in this area will provide sturdy federal standards and should be looked upon as floor - or minimum standards - that no airport can fall below. Local authorities must have the autonomy to adjust and enact higher standards if they fit their specific situation. The FAA should state explicitly in its final regulations that it has no intention of usurping the traditional police powers of state and local governments to establish minimum labor standards or to take other measures to protect public health and safety.

Improved Compensation

One of the most pressing issues facing airport security screening companies in the U.S. is the collective inability of the industry to maintain a stable workforce. And the reason they cannot hold on to their workers is that they pay them poverty-level wages and no benefits.

In its proposed rulemaking, the FAA states that "average annual screener turnover rates exceed 100 percent in many locations." Other sources claim these rates climb as high as 400-500 percent, in many areas of the country. The high turnover rate is a major handicap to security screening companies, which know that, on average, every day another screener will quit and a new screener will have to be trained. With this, the cycle begins anew with another screener. The high turnover rate is also a detriment to the quality of service provided from our front line of defense - pre-board screeners - to the safety of passengers and aviation workers.

The FAA must establish guidelines that the carriers must follow when hiring screening companies. It should not come down to only cost considerations. The FAA has an obligation to the public to ensure that only qualified, professional companies receive this work. This can only happen with proper regulations and the ability for the FAA to intervene in situations when it becomes apparent that inferior security work is being performed.

In order to properly address what should be considered a crisis situation, airline carriers, which typically contract with another company to conduct screening, must insist their screening companies pay a living wage with fair benefits to attract and keep a stable and professional workforce. In too many instances we hear examples of screeners leaving their job to work at an airport fast-food restaurant because they can make a dollar or two more per hour and have the chance for health coverage. We also know because wages are so low, many screeners must hold down second jobs just to make ends meet. This inevitably leads to fatigue, affecting job performance.

We should listen to screeners themselves, who say what a problem this is. In his testimony before the House Aviation Subcommittee, Bill Gilchrest, a screener for International Total Services, said the lack of retention "puts a strain on all aspects of our operation because we constantly have to train new, inexperienced individuals doing the job . . . to be a good screener, you must have experience and time on the checkpoint." And to keep these good screeners, airline carriers must provide adequate compensation. As we have seen in other countries, and more recently in the city of Los Angeles, when good wages and fair benefits are introduced, turnover tends to decline. Preliminary findings at Los Angeles International Airport have shown

that there has been a significant decrease in turnover since the city's Living Wage Ordinance took effect.

We believe the proposed rule falls short in not addressing compensation of screeners and other related safety personnel.

Staffing and Training

The importance of having adequate numbers of well-trained staff to perform security screening cannot be overlooked. Without these two essential pieces, no screening company can perform the necessary functions to keep U.S. airports safe. Currently, screening companies provide a paltry training to their workers -- typically screeners receive only eight hours of classroom training. Plain and simple, this is not enough! In order to do a proper job, security screeners need both rigorous classroom training, as well as on-the-job training with experienced supervisors.

We applaud Sen. Hutchison's recent proposal to increase security screener training to 40 hours of classroom time. If we are to be serious about safety, then we need to be serious about training as well. Proposals such as Sen. Hutchison's would help bring U.S. training standards of aviation safety and security personnel more in line with what most of Europe already requires of their workers in this field.

We believe that in order to better equip security screeners to handle their duties, that airports, carriers, screening companies, and the FAA should work together to develop the best possible standards. The current training provided to screeners is substandard and we would like to see that the provisions promoted by the FAA to improve screener qualifications - FAA testing standards, test administration requirements for carriers, and additional monitoring of screener performance, are included in the final rule. At the same time, we are concerned that if qualifications for screeners are raised, incumbent workers must be given an adequate opportunity to meet those qualifications. Training improvements should not be just for screeners either. Supervisors and management need training classes to help them better provide guidance and understanding to screeners.

And without the necessary staff to monitor security checkpoints, all the training in the world would be for naught. Screening companies cannot be short-staffed and expect to provide high. level service. The FAA must be vigilant in enforcing these rules. Any companies that violate these staffing guidelines must be identified and fined. Adequate provisions must be in place to ensure that all security checkpoints have ample staff. With a proper number of screeners staffing checkpoints, this would allow a timely rotation for x-ray monitors. For best results, these positions must be rotated every 30 minutes; otherwise screeners experience blurry vision, headaches, and a loss of concentration. These problems can most assuredly be avoided with a full staff of screeners and supervisors who understand the significance of timely rotation.

Screener Company and Carrier Accountability

During the hearing on screener company certification in March in front of the House Aviation subcommittee, Thomas Vaiden, president of International Total Services, a nationally recognized airport screening company, made the alarming statement that it is extremely uncommon for a screening company to win a contract when it is not the low bidder. Cost cannot be the only factor in determining who will keep our airports safe. The carriers and the screening companies must provide high quality service to help deter criminal activity and to limit security breaches. If they fail to do so, then both the airline and the screening company must be held accountable. The safety of passengers and aviation workers cannot be put in jeopardy to save what amounts to pennies per passenger.

In order to have the necessary enforcement of strong accountability measures, there must be a national certification of screening companies. These companies must be held directly accountable for their performance, while air carriers must improve their oversight of these contractors. To improve security measures further, we agree that the FAA should have a direct relationship with screening companies. It is not enough if the relationship ends with the carrier. To establish higher levels of accountability, the FAA needs more than an indirect relationship with the contractor that is actually performing the work. The FAA must assert their control over this matter and act decisively to ensure that all the parties involved are held responsible for their actions.

With that said, it is also important to remember that the screening companies are still beholden to the airlines for their work. Airlines must continue to be held accountable for the shortcomings of their contractors. Airlines play a direct role in how much workers are paid, how much training they receive, staffing levels, equipment decisions, and a host of other areas that impact the level of service provided. While additional oversight of the screening companies themselves is needed, the airlines need to continue to be held responsible as well.

Responsible Contractor Policy

A number of entities, including the California Public Employees Retirement System, and the New York State and Local Retirement Systems have adopted Responsible Contractor Policies for their investments in certain industries that address many of the issues raised above. Responsible Contractor Policies require that contract companies provide a living wage, health insurance and pension benefits to employees. While bids in a Responsible Contractor Program continue to be put out competitively, those contractors that abide by the principles of the program would be favored, which helps to ensure that workers contribution is valued.

One of the reasons cited to adopt such a program is very simple; because it's good public policy. When workers are not paid a living wage and fair benefits, state and local governments are often left to pick up the slack. This frequently places severe stress on state and local governments' capacity for providing social services.

Moreover, studies have shown that Responsible Contractor Programs are a good investment because an adequately trained and compensated workforce delivers a higher quality product and

services – exactly what the FAA is trying achieve with the proposed rule. These are the steps that can be taken to provide high quality screening services at U.S. airports to best protect the travelling public and airport workers. A policy such as this would certainly provide a rigorous standard for contractors, which would help professionalize this occupation and give security screening the critical recognition it deserves within our society.

I would urge the FAA to look into such policies and consider adding Responsible Contractor Language in some form to the proposed rule.

Once again, I would like to thank the FAA for taking time to address this aspect of safety and security in our nation's airports. These areas must be seriously considered by the Agency and it is imperative that actions are quickly taken to improve the level of aviation security that is currently in place across the country. Obviously it is not an area we can continue to ignore. The men and women who work for third party contractors as our front line of defense in airports must be valued. These jobs deserve respect and recognition, and we are hopeful that these efforts can be achieved through the rulemaking process.